

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

This amendment adjusts Medicaid reimbursement for physician services when the services are provided in a health care facility setting instead of the physician's office, usually by decreasing payment for services rendered in a facility setting. This adjustment is consistent with similar practice in the Medicare program. 2011 Iowa Acts, House File 649, allows the Department to implement the Medicaid cost containment strategies recommended by Governor Branstad. This change is one of the recommended strategies on which the Department's appropriation for Medicaid was based.

The rationale for this change is that a physician's expense in rendering a service in a facility setting is usually less than it would be in an office setting. When services are rendered in the physician's office, the cost of the service reflects not just the physician's time, but also the various support and auxiliary services involved in maintaining the office and providing services to patients. When services are provided in another facility, these expenses are borne by the facility and are reflected in the facility's reimbursement.

The Iowa Medicaid Enterprise identified 1761 procedure codes that have different Medicare reimbursement when services are provided in a facility and has calculated the percentage differential in the two reimbursement amounts for each code. The Iowa Medicaid Enterprise has applied that percentage differential to the Iowa Medicaid physician fee schedule for the same procedure code to arrive at the Medicaid payment for the service when rendered in a facility setting.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on September 7, 2011, as **ARC 9721B**. The amendment was also Adopted and Filed Emergency and was published as **ARC 9719B** on the same date.

The Department received one comment on the Notice of Intended Action from the Iowa Medical Society. The Society argues that:

- Adopting this amendment emergency was not in the public's interest; and
- Applying the Medicare standard of payment adjustments is not appropriate because Iowa Medicaid payments were already lower than Medicare payments (contrary to Iowa Code section 249A.20) and did not reflect physician practice expenses.

The state's budget situation created difficult choices. The Department believes that the choices made meet all legal requirements and will maintain access to services. The Department has an obligation to stay within its budget. Given that the effect of immediate implementation was reflected in the Department's budget appropriation, the Department had no option but to implement these changes as directed by the Legislature.

2011 Iowa Acts, House File 649, included the following language in section 141(l):

"Notwithstanding section 249A.20, for the fiscal year beginning July 1, 2012, the average reimbursement rate for health care providers eligible for use of the federal Medicare resource-based relative value scale reimbursement methodology under that section shall remain at the rate in effect on June 30, 2012; however, this rate shall not exceed the maximum level authorized by the federal government."

The "notwithstanding" language is clear direction from the Legislature for the Department not to apply the provisions of section 249A.20.

The Iowa Medicaid Enterprise (IME) examined several different options for applying the site-of-service differentials. Given the time frames involved, it was not feasible for the IME to do its own study to determine the exact physician expense involved with each of these codes. Since IME has not followed the annual changes in the Medicare resource-based relative value system fee schedule, it was determined that using the same "dollar" differential that Medicare utilizes for these services would

also not be appropriate. A straight across-the-board percentage adjustment did not make sense, as the physician expense varies based on the type of service being performed.

Based on that review, the decision was made that following the same percentage differential used by Medicare was the most appropriate approach, as it is procedure code-specific and better represents the concept underlying the site-of-service adjustments. IME therefore applied a differential equal to the same percentage that Medicare applies for the specific code. Some codes affected by this change received a very minimal reduction and, in some cases, even a payment increase.

This rule making modifies the amendment Adopted and Filed Emergency and published under Notice of Intended Action in two ways:

- Because the site-of-service adjustments can result in an increased payment in the facility setting, references to a “reduction” or “reduced” payment are modified to refer to an “adjustment” or “adjusted” payment.
- The basis for the adjustment is specified in the text of the rule.

A complete summary of the comments and the Department’s responses is available on the Department’s Web site at: <http://www.dhs.iowa.gov/policyanalysis/RulesPages/phcomm.htm>.

The Council on Human Services adopted this amendment on December 14, 2011.

This amendment does not provide for waivers in specified situations because the savings assumed in the Department’s appropriations will not be achieved if waivers are provided. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 249A.4 and 2011 Iowa Acts, House File 649, section 10, subsection 20(a).

This amendment shall become effective February 15, 2012, at which time the Adopted and Filed Emergency amendment is rescinded.

The following amendment is adopted.

Amend paragraph **79.1(7)“b”** as follows:

b. Payment ~~reduction~~ adjustment for services rendered in facility settings. ~~The~~ When a service is rendered in a facility setting, the fee schedule amount paid to physicians based on paragraph 79.1(7) “a” shall be reduced adjusted by an adjustment factor as determined by the department a percentage differential that is equal to the percentage difference between the Medicare nonfacility and facility fee schedule amounts for Iowa. For the purpose of this provision, a “facility” place of service (POS) is defined as any of the following:

- (1) Hospital inpatient unit (POS 21).
- (2) Hospital outpatient unit (POS 22).
- (3) Hospital emergency room (POS 23).
- (4) Ambulatory surgical center (POS 24).
- (5) Skilled nursing facility (POS 31).
- (6) Inpatient psychiatric facility (POS 51).
- (7) Community mental health center (POS 53).
- (8) Comprehensive inpatient rehabilitation (POS 61).

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/11/12.